



# राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार, 3 फरवरी, 2001/14 माघ, 1922

हिमाचल प्रदेश सरकार

PANCHAYATI RAJ DEPARTMENT

ORDER

*Shimla-9, the 5th January, 2001*

**No. pCH-HA (5)34/2000-Thonda Jakhel-354.**—Whereas Shri Rattan Singh, Pradhan, Gram Panchayat Thonda Jakhel, Development Block Paonta Sahib, District Sirmour has been arraigned and placed under suspension by the Deputy Commissioner, Sirmour for the following charges:—

That on the basis of Audit Report for the period from 4/96 to 23-12-99 a sum of Rs. 27000/- were drawn against Primary School, Thonda and Community Centre, Jakhel and recorded in the cash-book on 24-3-99 were misappropriated by the said Shri Rattan Singh and the G. P. V. A. by not utilizing the amount for the said purpose.

Out of allocation of Rs. 18000/- under the 10th Finance Commission the said Pradhan and G. P. V. A. withdrew Rs. 5000/- from the bank as is evident from the cash-book's entries dated 23-3-99. The amount was embezzled by the Pradhan by not spending the same on the development works.

The Deputy Commissioner, Sirmour sanctioned Rs. 1,60,000/- for the School rooms under Saraswati Bal Vidyalaya Yozna. While sending the cheque of the said amount to Panchayat, the Panchayat was clearly advised to open the account under Joint Signature of the Pradhan and

G. P. V. A. in the G. P. account in the Himachal Pradesh State Co-operative Bank Ltd. Branch at Sataun. But the Pradhan deposited the said amount in his own account No. 590 dated 16-9-99 in P. N. B. at Paonra Sahib. He drew Rs. 44,800/- out of this account on 5-10-99 and embezzled the amount.

Whereas Statutory Inquiry was conducted into the charges and the inquiry officer has submitted the report.

Whereas on the basis of the inquiry report and material on records charge No. 1 & 3 against Sh. Rattan Singh, are as follows:—

1. The delinquent Pradhan took Rs. 15000/- for the construction of G. P. S. Building Thonda Jakhal and Rs. 12000/- for the construction of community centre building Jakhal as advance. The amount was embezzled by the said Pradhan. This charge has been proved conclusively.
2. Not proved.
3. Out of Rs. 1,60,000/- lacs sanctioned for GPS Baila Gajaun, the Pradhan took 1st instalment as Rs. 41,800/- as an advance and embezzled the amount.

FIR No. 20/2000 dated 2-4-2000 under section 409/420 of I.P.C. stands registered in the Police Station, Shallai.

And whereas Section 146 of the H.P. Panchayati Raj Act, 1994 provides for removal of office-bearers of Panchayat for the following reasons; *inter-alia*:—

1. If he has been guilty of misconduct in discharging of his duties;
2. If his continuance in office is undesirable in the interest of public.

Therefore, the said Sh. Rattan Singh, Pradhan (suspended) is called upon to show as to why he shall not be removed from the office of the Pradhan G.P. Thonda Jakhal and also disqualified for a period of 6 years to be elected as the office-bearer of any Panchayati Raj Institution under the Act *ibid*.

The reply of said Sh. Rattan Singh, Pradhan (suspended) reach in the office on or before 10th January, 2001 failing which it will be presumed that he had nothing to say in his defence and action as per law shall be taken.

Sh. Rattan Singh, Pradhan (suspended) is also informed that no other opportunity except being provided through this notice shall be extended to him.

Shimla-171009, the 16th January, 2001

No. PCH-II- (2) 29/98-Thari.—Whereas, Smt. Leela Sharma, Pradhan Gram Panchayat Thari was arraigned of 5 charges of financially misappropriation and misuse of Panchayat funds, gist of which is given below chargewise:—

1. That for the construction of Pawad Tank of the Gram Panchayat the Pradhan had submitted a Muster Roll in which the name of labourer Shri Devi Ram was found to be fake. On preliminary verification, it was found that the aforesaid labourer has not worked under this scheme. Therefore, the payment of the amount shown against the name of Shri Devi Ram amounting to Rs. 1443.75 has been embezzled by the aforesaid Pradhan.

2. That on 31-3-1997 the aforesaid Pradhan had submitted a proposal for purchase of Dari and Chairs for Rs. 3000/- for which the amount of Rs. 1994/- for the purchase of Dari and balance amount has been shown against purchase of electrical goods. Therefore, allegations is being levelled for spending money allocated for sch , been spent on the other scheme without the administrative approval.
3. That the aforesaid Pradhan had been sanctioned an advance of Rs. 15000/- for the construction of road Khawara Chowki in Pawar and Khawara Chowki to Salana at the rate of Rs. 7500/- per road but the aforesaid Pradhan did not get the work done for about two years. Likewise, the construction of rain shelter Panog and Pradhan was sanctioned an amount of Rs. 19870/- on 6-1-99 but on preliminary inquiry it was found on the spot that no work had been done. Therefore, the aforesaid Pradhan had embezzled/misappropriated Rs. 15000/- + Rs. 19870/-.
4. That on 6-4-98 to 4-1-99 and on different dates, a huge unauthorized amount of Rs. 74870/- as cash balance was found from Smt. Leela Sharma, Pradhan. Therefore, the Pradhan has violated the Himachal Pradesh Panchayati Raj Financial rules and regulations and has embezzled the amount the amount of Rs. 74870/-.
5. That the aforesaid Pradhan on 15-8-97 has distributed Ladoos to school children for Rs. 924/- for which the Pradhan has not taken any prior sanction of the administration. Besides this an amount of Rs. 980/- towards preparing fake voucher of tea, the Pradhan has put a loss of Rs. 924 + 980 to the Gram Panchayat.

And whereas, the Government of Himachal Pradesh ordered inquiry into these charges under section 146 (1) of the Himachal Pradesh Panchayati Raj Act and Additional Deputy Commissioner, Shimla was appointed as Inquiry Officer and whereas the Inquiry Officer has submitted its inquiry report and charge No. 1 & 5 have been proved as follows:—

*Charge No. 1:* Fake payment of Rs. 1443.75 against muster roll. There are conclusive evidence for this charge and the Inquiry Officer has said that the Pradhan created false muster roll to make fake payment.

*Charge No. 5:* Rs. 924/- were spent for distribution of sweets on 15-8-97 without administrative approval. Fake vouchers of tea for Rs. 970/-.

The Inquiry Officer has held that sweets worth Rs. 924/- were distributed though there was no approval of Panchayat for this expenditure. The Inquiry Officer further held that the Pradhan has created fake voucher for Rs. 530/- and thus embezzled this amount.

The report of the Inquiry Officer on charge No. 1 & 5 as referred to above has been accepted by the Government and is proposed to impose penalty of removal and disqualification as provided under section 146 of the Himachal Pradesh Panchayati Raj Act, 1994. Thus, Smt. Leela Sharma Pradhan Gram Panchayat, Thari, is called upon to shown cause as to why she shall not be removed from the office of the Pradhan Gram Panchayat Thari for proven charges of financial misappropriation and forgery of record and also as to why she shall not be disqualified for a period of 6 years to be elected as office bearer of Panchayat under this Act.

The reply of said Smt. Leela Sharma shall reach in this Office on or before 19th of January, 2001 failing which it will be presumed that she has nothing to say in her defence and action as per law shall be taken.

Smt. Leela Sharma is also informed that no other opportunity except being provided through this notice shall be extended to her.

Shimla-9, the 18th January, 2001

**No. PCH-HA(2) 110/98-Bawasni.**—Whereas Sh. Babu Ram, Pradhan, Gram Panchayat Bawasni Development Block Nalagarh was arraigned and placed under suspension by the Deputy Commissioner Solan on 8-9-99 for the following charges:—

1. That Sh. Babu Ram, Pradhan withdrew Rs. 7500/- from Bank under EAS scheme on 16-3-98 for construction of path and drainage village Kath Kanaun. The said Pradhan submitted Bills/Vouchers of Rs. 7500/- to concerned GPVA. But no work was found done on the spot. This shows misappropriation of Rs. 7500/- by producing false Bills/Vouchers.
2. That Rs. 7500/- were sanctioned for the construction of Bowari at Village Shilli under DCP. According to the report of J.E. (Dev.) the construction work is of substandard. No wall was constructed on the side of Bowari and the roof of the Bowari was also lanterned. This shows misappropriation of Government funds of Rs. 7500/-.
3. That for the construction of paths at Pahari Chikni and Goyala, Rs. 14000/- were sanctioned. Both of these schemes were executed through Ward Panch Sh. Dharma and Sh. Rama Nand, Up Pradhan of the Panchayat. Sh. Babu Ram, Pradhan withdrew Rs. 14000/- on 15-12-98 from the Bank and deposited the amount in his personal account No. 37 in State Bank of Patiala. The said Pradhan did not make timely payments to the concerned and as such misappropriated the funds of Rs. 14000/-.
4. That Sh. Babu Ram, Pradhan, has unauthorisedly retained Rs. 2435/- as cash in hand *w.e.f.* 30-3-98.
5. That Sh. Babu Ram, collected Rs. 2095 + 419 = 2514/- on account of house tax and fees of Ration Card. The same amount was not deposited in the account of G.P. Whereas he has submitted the receipts of this amount to GPVA. This shows that misappropriation of Rs. 2514/- has been done by the said Pradhan.

In order to enquire the said charges, an inquiry U/S 146 of Himachal Pradesh Panchayati Raj Act, 1994 was got conducted and during the course of the said inquiry it has been found that the said Pradhan has actually misappropriated the funds of the Gram Panchayat and as such all the above mentioned charges have been proved against him.

The inquiry report is well reasoned and based on objective evidence and witness. On the basis of the findings of the Inquiry Officer into the charges, the delinquent Pradhan was found guilty of misconduct as described in under section 146 (1) (D) of Himachal Pradesh Panchayati Raj Act, 1994 and his continuance in the office was *prima-facie* found to be undesirable in the interest of public.

Therefore, the notice under section 146 of Panchayati Raj Act was served to the delinquent Pradhan calling upon him as to why he should not be removed from the office of the Pradhan and as to why he should not be disqualified for a period of 6 years to be elected as office-bearer of Panchayat under the provisions of the Act. In response to this notice, he filed reply, gist of which is tersely recorded as follows:—

**Charge No. 1:** According to Pradhan he has executed the scheme and submitted muster-roll to concerned G P V A. He further stated that this scheme was inspected the J. E. (Dev.) also. He concluded that he has not misutilised any amount.

**Charge No. 2:** The Pradhan stated that he has completed the work of the Bowari and in addition to sanctioned amount, he has also spent Rs. 10086/- from his own pocket which was not refunded to him.

**Charge No. 3:** The Pradhan while admitting that the amount was taken by him has averred that he returned the funds to G P V A because the labourers were demanding higher daily wages of Rs. 150 instead of Rs. 58/- as per the rate of Government.

**Charge No. 4:** The Pradhan denied this charge by saying that a sum of Rs. 2435/- never remained with him as cash-in-hand.

**Charge No. 5:** The Pradhan has stated that he has given Rs. 500/- in lieu of Rs. 419/- to Shri Jai Pal G P V A Bawasni under receipt dated 28-6-99.

Finally, the said Pradhan has requested that the excess amount spent by him on the schemes should be refunded to him.

It may be mentioned with regard to Charge No. 1 viz-a-viz, the reply of the Pradhan and on the basis of the findings of the I. O., the said Pradhan has not executed the scheme and has prepared false Bills/Vouchers amounting to Rs. 7500/-. Hence, the charge stands proved.

**Charge No. 2—**With regard to this charge, the I. O. has reported that the work of the Sheel Bowari is totally incomplete. The Bowari has been constructed with mud. So this charge is also stands proved.

**Charge No. 3—**This charge stands, proved because the I. O. has reported that the Pradhan withdrew Rs. 14000/- from the Bank and retained it with himself unauthorisedly. As per the report of the I. O. the payments to labourers has also not been made till the date of completing the enquiry.

**Charge No. 4—**The I. O. has concluded in his report that the said Pradhan kept Rs. 2435/- as cash-in-hand unauthorisedly *w.e.f.* 30-3-98. This amount is still standing with the said Pradhan. Thus, the charge against the Pradhan stands proved.

**Charge No. 5—**This charge stands proved because the said Pradhan collected Rs. 419+2095=2514/- as fees of 419 Ration Cards and House Tax. This amount has not been deposited in any account of the Gram Panchayat by the said Pradhan. This shows that the said Pradhan is guilty of misappropriation of Rs. 2514/-.

These charges proved against the delinquent Pradhan range from financial misappropriation to embezzlement and forging of false records and such act on the part of the Pradhan holding public and responsible office is definitely a misconduct under section 146 of the Himachal Pradesh Panchayati Raj Act, 1994.

For the reasons recorded heretofore, the Governor of Himachal Pradesh in exercise of the powers vested in him under section 146 (1) of the Himachal Pradesh Panchayati Raj Act, 1994 is pleased to remove Sh. Babu Ram, Pradhan (suspended) Gram Panchayat Bawasni Development Block Nalagarh, Distt. Solan forthwith. The Governor of Himachal Pradesh in exercise of the powers vested in him under the Act *ibid* is further pleased the order the disqualification of said Sh. Babu Ram, Pradhan (suspended) for a period of 6 years to be elected as office-bearer of Panchayat under this Act. These orders shall become into force with immediate effect.

Shimla-9, the 19th January, 2001

**No. PCH-HA (5) 34/2000-Thonda Jakhal-1487.**—Whereas Sh. Rattan Singh, Pradhan, Gram Panchayat Thonda Jakhal Development Block Poanta Sahib, Distt. Sirmour has been

arraigned and placed under suspension by the Deputy Commissioner, Sirmour for the following charges:—

1. That on the basis of Audit Report for the period from 4/96 to 23-12-99 a sum of Rs. 27000/- drawn against Primary School Thonda and Community Centre Jakhal and recorded in the cash-book on 24-3-99 were misappropriated by the said Sh. Rattan Singh and the G. P. V. A. by not utilizing the amount for the said purpose.

2. Out of allocation of Rs. 18000/- under the 10th Finance Commission the said Pradhan and G. P. V. A. withdrew Rs. 5000/- from the bank as is evident from the cash-book's entries dated 23-3-99. The amount was embezzled by the Pradhan by not spending the same on the development works.

3. The Deputy Commissioner, Sirmour sanctioned Rs. 1,60,000/- for the School rooms under Sarswati Bal Vidalya Yozna. While sending the cheque of the said amount to Panchayat, the Panchayat was clearly advised to open the account under joint signature of the Pradhan and G. P. V. A. in the G. P. account in the H. P. State Co-operative Bank Ltd. Branch at Sataun. But the Pradhan deposited the said amount in his own account No. 590 dated 16-9-99 in P. N. B. at Ponta Sahib. He drew Rs. 44,800/- out of this account on 5-10-99 and embezzled the amount.

Whereas Statutory Inquiry was conducted into the charges and the inquiry officer has submitted the report.

Whereas on the basis of the inquiry report and material on record charge No. 1 & 3 against Sh. Rattan Singh, are as follows:—

1. The delinquent Pradhan took Rs. 15000/- for the construction of G.P.S. Building Thonda Jakhal and Rs. 12000/- for the construction of community centre building Jakhal as advance. The amount was embezzled by the said Pradhan. This charge has been proved conclusively.
2. Out of Rs. 1,60,000/- lacs sanctioned for G. P. S. Biala Gajaun, the Pradhan took 1st installment as Rs. 44,800/- as an advance and embezzled the amount.

FIR No. 20/2000 dated 2-4-2000 under section 409/420 of I. P. C. stands registered in the Police Satation, Shillai.

The inquiry report is well reasoned and based on objective witness/evidence. On the basis of findings of the inquiry office into the charges No. 1 & 3 as mentioned above, the delinquent Pradhan was found guilty of misconduct as described under section 146 (1) (b) of the Act and his continuance in the office was *prima-facie* found to be undesirable in the interest of public.

And whereas Section 146 of the H. P. Panchayati Raj Act, 1994 provides for removal of office-bearers of Panchayat for the following reasons; *inter-alia*,—

1. If he has been guilty of misconduct in discharging of his duties;
2. If his continuance in office is undesirable in the interest of public.

Therefore, notice under section 146 of the Act was issued to the delinquent Pradhan calling upon him as to why he should not be removed from the office of the Pradhan and also as to why he should not be disqualified for a period of 6 years to be elected as the office bearer of the Panchayat under the Act.

In response to this notice the Pradhan has failed to submit his reply and it is evident that he has nothing to say in his defence and that he has admitted the charges.

The charges proved against the delinquent Pradhan relate to financial misappropriation and such act on the part of the person holding public and responsible office is definitely a misconduct and the delinquent Pradhan is guilty of misconduct.

For the reasons recorded here to fore, the Governor of Himachal Pradesh in exercise of the powers vested in him under section 146(1) of the H. P. Panchayati Raj Act, 1994 is pleased to remove Sh. Rattan Singh, Pradhan, G. P. Thonda. Jakhal Dev. Block Poanta Sahib, Distt. Sirmour forthwith. The Governor of Himachal Pradesh in exercise of the powers vested in him under the Act *ibid* is futher pleased to order the disqualification of said Sh. Rattan Singh, Pradhan (suspended) Gram Panchayat Thonda Jakhal for a period of 6 years to be elected as office-bearer of a Panchayat under the Act. These orders shall be come into force with immediate.

*Shimla -171 009, the, 20th January, 2001*

**No. PCH-HA (5)5 9/98-1670.**—Whereas, Smt. Leela Sharma, Pradhan Gram Panchayat Thari was arraigned of 5 charges of financial misppropriation and misuse of Panchayat funds and was placed under suspension by the District Panchayat Officer, Shimla for the following charges:—

1. That for the construction of Pawad Tank of the Gram Panchayat the Pradhan had submitted a Muster Roll in which the name of labourer Shri Devi Ram was found to be fake. On preliminary verification it was found that the aforesaid laborer has not worked under this scheme. Therefore, the payment of the amount shown against the name of Shri Devi Ram amounting to Rs. 1443.75 has been embezzled by the aforesaid Pradhan.
2. That on 31-3-1997 the aforesaid Pradhan had submitted a proposal for purchase of Dari and Chairs for Rs. 3000/- for which the amount of Rs. 1994/- for the purchase of Dari and balance amount has been shown against purchase of electrical goods. Therefore, allegations is being levelled for spending money allocated for scheme, has been spent on the other scheme without the administrative approval.
3. That the aforesaid Pradhan had been sanctioned an advance of Rs. 15,000/- for the construction of road Khawara Chowki in Pawar and Khawara Chowki to Salana at the rate of Rs. 7500/- per road but the aforesaid Pradhan did not get the work done for about two years. Likewise, the construction of rain shelter Panog and Pradhan was sanctioned an amount of Rs. 19870/- on 6-1-99 but on preliminary inquiry it was found on the spot that no work had been done. Therefore, the aforesaid Pradhan had embezzled/misappropriated Rs. 15,000/- + Rs. 19,870/-.
4. That on 6-4-98 to 4-1-99 and on different dates, a huge unauthorized mount of Rs. 74870/- as cash balance was found from Smt. Leela Sharma, Pradhan. Therefore, the Pradhan has violated the Himachal Pradesh Panchayati Raj Financial Rules and Regulations and has embezzled the amount of Rs. 74870/-.
5. That the aforesaid Pradhan on 15-8-97 has distributed Ladoos to school children for Rs. 924/- for which the Pradhan has not taken any prior sanction of the administration. Besides this an amount of Rs. 980/- towards preparing fake voucher of tea, the Pradhan has put a loss of Rs. 924+ Rs. 980/- to the Gram Panchayat.

And whereas, the Government of Himachal Pradesh ordered inquiry into these charges under section 146(1) of the Himachal Pradesh Panchayati Raj Act and Additional Deputy Commissioner Shimla was appointed as Inquiry Officer and whereas the Inquiry Officer submitted its Inquiry Report and charge No. 1 & 5 have been proved as follows:—

**Charge No. 1.—Fake payment of Rs 1443.75 against muster roll.**—There is conclusive evidence of this charge and the Inquiry Officer has held that the Pradhan created false muster roll to make fake payment.



**Charge No. 5—Rs. 924/- were spent for distribution of sweets on 15-8-97 without administrative approval. Fake vouchers of tea for Rs.970/.—**The Inquiry Officer has held that sweets worth Rs. 924/- were distributed though there was no approval of Panchayat for this expenditure. The Inquiry Officer further held that the Pradhan has created fake voucher for Rs. 530/- and thus embezzled this amount.

Rest of the charges were not proved beyond doubt.

The report of the Inquiry Officer on charge No. 1 & 5 as referred to above was accepted by the Government and it was proposed to impose penalty of removal and disqualification as provided under section 146 of the Himachal Pradesh Panchayati Raj Act, 1994. Thus, Smt. Leela Sharma Pradhan Gram Panchayat, Thari, was called upon to show cause as to why she shall not be removed from the office of the Pradhan Gram Panchayat Thari for proven charges of financial misappropriation and forgery of record and also as to why she shall not be disqualified for a period of 6 years to be elected as office bearer of Panchayat under this Act.

In response to this notice, she filed reply, gist of which is as follows:—

The findings into charge No. 1 & 5 are not correct. The bill vouchers of the amount referred to in these charges were presented to the Enquiry Officer and also that the Mason has said that the signatures on the muster roll are put by him. Similarly, the bills of sweets are authenticated by the Principal of the School. And finally, that the shop keeper has admitted that the bills of sweets and tea are genuine.

The assertion of the delinquent Pradhan notwithstanding, the statement of the labourer and the tea stall owners belie this version. Similarly, the record also contradicts other version of the delinquent.

Now the question for determination is as to whether the proven charges against the said Pradhan, constitute the "misconduct" as defined under section 146(b) of the Act or not. The "misconduct" under section 146 has been explained as follows:—

**"Explanation.—**For the purpose of this sub-section "misconduct" shall include—

(a) any action which adversely affects:—

- (i) the sovereignty, unity and integrity of India, or
- (ii) the harmony and the spirit of common brotherhood amongst all the people of State transcending religious, linguistic, regional, caste or sectional diversities or regional, caste or sectional diversities; or
- (iii) the dignity of women; or

(b) gross negligence in the discharge of the duties under this Act,"

The word "shall includes" go to conclude that the misconduct as defined in this section includes many other acts. The charges proved against the delinquent Pradhan range from financial misappropriation to forgery of record. Such act on the part of a person holding public & responsible office is definitely a misconduct & therefore the delinquent Pradhan is guilty of misconduct.

For the reasons recorded hereto fore the Governor of Himachal Pradesh in exercise of the powers vested in him under section 146 of the Himachal Pradesh Panchayati Raj Act, 1994 is pleased to remove Smt. Leela Sharma, Pradhan Gram Panchayat Thari, Dev. Block Mashobra, District Shimla forthwith. The Governor of Himachal Pradesh in exercise of the powers vested in him under the Act *ibid* is further pleased to order the disqualification of said Smt. Leela Sharma, Pradhan Gram Panchayat Thari, Dev. Block Mashobra for a period of 6 years to be elected as office-bearer of a Panchayat under the Act. These orders shall come into force with immediate effect.

By order,

Sd/-  
Commissioner-cum-Secretary.